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Letter dated 15 May 2015 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I would be grateful if the present letter and its annexes could be circulated to the members of the Security Council.

(*Signed*) Theodor **Meron**

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Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 November 2014 to 15 May 2015

1. The present report, the sixth in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[1]

I. Introduction

2. The Security Council, by its resolution 1966 (2010), established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals.

3. The Security Council emphasized that the Mechanism should be a small, temporary and efficient structure, and determined that it should operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Council decides otherwise.

4. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for many functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including with regard to a range of judicial activities, the enforcement of sentences, resettlement of acquitted and released persons, the protection of victims and witnesses and the management of archives. As the Tribunals complete their work and progressively downsize their operations, the Mechanism is relying less on the support services of the two Tribunals and continues the process of establishing its own small self-standing administration. The Mechanism continues to work closely with Tribunal principals and staff to ensure a smooth transition of the remaining functions and services and the harmonization and adoption of best practices.

II. Structure and organization of the Mechanism

5. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals — the President, the Prosecutor and the Registrar — who have responsibility over two branches, one located in Arusha and the other in The Hague. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions inherited from the International Criminal Tribunal for Rwanda. The branch in

[1] Unless otherwise specified, figures discussed in the report are accurate as at 11 May 2015.

The Hague commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

6. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: (a) the Chambers; (b) the Prosecutor; and (c) the Registry, to provide administrative services for the Mechanism.

7. The President of the Mechanism is Judge Theodor Meron. The Prosecutor is Mr. Hassan Bubacar Jallow. The Registrar is Mr. John Hocking. All three principals were appointed in 2012 for terms of four years.

B. The branches

8. The Government of the United Republic of Tanzania has been cooperating with the Mechanism in the implementation of the headquarters agreement for the Arusha branch, which entered into force on 1 April 2014 and also applies to the International Criminal Tribunal for Rwanda. The agreement between the United Nations and the Netherlands concerning the Headquarters of the Mechanism was signed on 23 February 2015. Upon its entry into force, it will also apply to the International Tribunal for the Former Yugoslavia.

9. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda, while preparations for the Mechanism's new permanent premises in Arusha are advancing according to budget and schedule and under the overall timetable approved by the General Assembly in its resolution 67/244 B of 12 April 2013. On 19 February 2015, the United Nations signed a contract with Jandu Plumbers, a well-established Tanzanian construction company based in Arusha. The contractor commenced work in February 2015, with completion and occupancy expected early next year. The Government of the United Republic of Tanzania has graciously completed the temporary access road to the site and works for the connection of utilities are in progress. The Mechanism delivers annual progress reports to the Assembly on the construction project.

10. The Arusha sub-office in Kigali continued to provide protection and support services to witnesses and lead the efforts in tracking the remaining fugitives. In addition, the Kigali sub-office continued to support the activities of the monitors of the cases of the International Criminal Tribunal for Rwanda referred to Rwanda pursuant to article 6 of the statute of the Mechanism.

11. The branch of the Mechanism in The Hague is currently co-located with the International Tribunal for the Former Yugoslavia. The Mechanism has a strong preference for remaining at its current premises after the closure of the Tribunal. Discussions with the host State authorities and the owners of the premises are ongoing and the work on this issue is being coordinated by a working group comprised of representatives of the three organs of the Mechanism.

C. Administration and staffing

12. During the biennium 2014-2015, administrative services, such as human resources, finance, budget, procurement, logistics, security and information technology services, were provided to the Mechanism by both Tribunals, under the coordination of the Registry of the Mechanism.

13. For the biennium 2014-2015, the ability of the Tribunals to provide such support is decreasing owing to their progressive downsizing. As a result, the Tribunals and the Mechanism have agreed on the basic requirements for a small self-standing Mechanism administration, and these requirements were included in the 2014-2015 budget for the Mechanism approved by the General Assembly on 27 December 2013. A similar request will be made in the context of the upcoming budget submission for 2016-2017.

14. The transfer of administrative functions to the Mechanism began on 1 January 2014 and is being implemented gradually over the current and coming biennium, in step with the downsizing of the Tribunals and keeping a focus on ensuring efficiency, accountability, and consistency.

15. During the reporting period, and in accordance with the plan for the transfer of administrative functions, the Human Resources, Finance, Procurement, and General Services Sections of the International Tribunal for the Former Yugoslavia continued to perform their functions on behalf of the Tribunal and both branches of the Mechanism. They did so supported by a limited but growing number of Mechanism administration staff.

16. Crucial to the advancement of the Mechanism's self-standing administration is the provision of a single virtual information technology platform among The Hague, Arusha and Kigali. During the reporting period, "Vblock" servers required to create this platform have been installed in both branches and have been tested and piloted. It is expected that by June 2015, this platform will allow full and equal access to databases, information technology systems and applications in all three locations.

17. Recruitment of Mechanism staff is proceeding well, with a vacancy rate of only 8 per cent for its continuous posts. As at 11 May 2015, recruitment across both branches of the Mechanism has resulted in 170 filled posts: 33 in the Office of the Prosecutor and 137 in the Registry, including a small number of staff to serve in the Mechanism's Chambers and assist with the ongoing judicial work.

18. The Mechanism's staff includes nationals of the following 54 States: Albania, Australia, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cameroon, Canada, China, Colombia, Croatia, Cuba, Cyprus, the Democratic Republic of the Congo, Denmark, Ethiopia, Fiji, Finland, France, the Gambia, Germany, Greece, India, Ireland, Italy, Kenya, Latvia, Lebanon, Liberia, Malawi, Malaysia, Mali, Nepal, the Netherlands, New Zealand, the Niger, Nigeria, Pakistan, the Plurinational State of Bolivia, Poland, the Republic of Korea, the Russian Federation, Rwanda, Senegal, Serbia, Spain, the Sudan, Sweden, the United Republic of Tanzania, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Zimbabwe.

19. Approximately 76 per cent of those recruited are current or former staff of the Tribunals. Fifty-three per cent of staff in the Professional category are women — surpassing the Secretary-General's gender parity goals and exceeding the 42 per cent average across the United Nations. In addition, the Mechanism has appointed focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; and diversity and inclusion issues.

D. Legal and regulatory framework

20. The Mechanism has established a structure to govern its activities and developed rules, procedures, and policies that harmonize and build upon the best practices of both Tribunals.

III. Judicial activities

21. During the reporting period, the Mechanism has continued to make progress in completing judicial work.

22. On 18 December 2014, the Appeals Chamber rendered, as forecast, a judgement on an appeal filed by Augustin Ngirabatware. The Appeals Chamber granted one ground of appeal raised by Mr. Ngirabatware and reduced his sentence from 35 to 30 years of imprisonment.

23. On 19 January 2015, the Appeals Chamber issued a decision on a request filed by Aloys Ntabakuze for the assignment of an investigator and counsel to assist him with an anticipated request for review. The Appeals Chamber is currently seized of a request for review pursuant to rule 146 of the Rules of Procedure and Evidence of the Mechanism, filed by Milan Lukić on 6 February 2014. The briefing in that case is completed and the matter is under consideration. Two additional confidential matters related to anticipated requests for review are currently pending before the Appeals Chamber. The briefing for one of the matters was completed on 24 March 2015, and the other is ongoing.

24. The President of the Mechanism has, pursuant to his authority in the area of enforcement of sentences, issued two decisions in response to requests for early release. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable.

25. During the reporting period, the President also issued a number of additional decisions and orders. Among other things, on 8 April 2015, the President dismissed without prejudice Bernard Munyagishari's third request for revocation of the referral of his case to Rwanda.

26. Mechanism judges in Arusha and The Hague also considered a range of motions addressing diverse matters, and issued a number of public and confidential decisions and orders.

IV. Victims and witnesses

27. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements, the Mechanism is responsible for witness support and protection for the thousands of protected witnesses who have testified in cases completed by the two Tribunals.

28. The Witness Support and Protection Unit is fully operational in both branches of the Mechanism. Consistent with judicial protection orders and in close collaboration with domestic authorities or other United Nations entities, the Unit

provides security to witnesses by undertaking threat assessments and coordinating responses to security requirements. In addition, it ensures the safekeeping of confidential witness information.

29. In response to requests for the rescission, variation or augmentation of witness protective measures, the number of consultations between the Unit and witnesses continued to rise over the reporting period. In response to the increase, the branch in The Hague further elaborated on its practice of ensuring that witnesses understand and fully agree to the release of information pertaining to their testimonies. Similar to previous reporting periods, the Unit was required to contact some witnesses more than once in a relatively short period in response to requests in different cases before national courts or in different phases of the proceedings.

30. The Arusha branch also provides ongoing support services to witnesses. At the Kigali sub-office, for example, the Mechanism continues the provision of medical and psychosocial services to witnesses residing in Rwanda, particularly for psychotrauma and patients living with HIV/AIDS, many of whom contracted the virus as a result of crimes committed against them during the genocide.

31. The branch in The Hague continued with the implementation of a pilot study, supported by the University of North Texas and partly financed by voluntary contributions, into the long-term impact that testifying before the International Tribunal for the Former Yugoslavia has on witnesses. During the reporting period, an additional 130 interviews were completed, resulting in a total of 260. The Arusha branch is considering conducting a similar post-testimony study and is in the preliminary stages of developing the scope and methodology of the study, in conjunction with the University of North Texas.

32. The witness protection teams at the two branches continued to exchange best practices for the development of policies, and are at the final stages of establishing a common information technology platform for their respective witness databases. These efforts will maximize operational efficiencies across both branches and ensure that the Mechanism preserves and develops the best practices established by the two Tribunals.

V. Fugitives and trial readiness

33. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, in particular those where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

34. Nine accused individuals indicted by the International Criminal Tribunal for Rwanda remain fugitives. Of the nine fugitives, the Mechanism retains jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other six fugitives have been referred to Rwanda. The arrest and prosecution of these nine remaining individuals remain a top priority for the Mechanism. The President and the Prosecutor, with the support of the Registrar, have agreed to work closely on the associated political issues.

35. Consistent with its commitment to efficiency, the Mechanism continues to work to ensure that it is prepared to conduct a trial or appeal when a fugitive is apprehended and/or when any continuing International Tribunal for the Former Yugoslavia trials result in an appeal or retrial. Pursuant to article 15(4) of the statute of the Mechanism, relevant policies and procedures as well as rosters of qualified potential staff have been prepared, ensuring that the Mechanism is ready for any future trials and/or appeals.

VI. Cases referred to national jurisdictions

36. Pursuant to article 6(5) of its statute, the Mechanism is responsible for monitoring cases referred by the two Tribunals to national courts, with the assistance of international and regional organizations and bodies.

37. Two individuals indicted by the International Criminal Tribunal for Rwanda, Jean Uwinkindi and Bernard Munyagishari, have been apprehended and their cases referred to Rwanda for trial. As previously reported, the trial in the *Uwinkindi* case commenced and is ongoing. The *Munyagishari* case is in the pretrial phase. Two additional individuals indicted by the International Criminal Tribunal for Rwanda, Laurent Bucyibaruta and Wenceslas Munyeshyaka, have had their cases referred to France for trial. They are in French custody but their cases are still in the investigative phase.

38. During the reporting period, the Mechanism monitored the cases referred to Rwanda with the assistance of monitors from international bodies, as well as interim monitors provided by the International Tribunal for the Former Yugoslavia and the Mechanism. An interim monitor has been monitoring the two cases referred to France. The public monitoring reports in all four cases are available on the Mechanism's website (www.unmict.org).

39. On 15 January 2015, the Mechanism signed a memorandum of understanding with the Kenyan Section of the International Commission of Jurists (ICJ Kenya) concerning the monitoring of the cases referred to Rwanda, which came into effect on the same date. ICJ Kenya is a leading organization in promoting and protecting human rights and rule of law across Africa. On 18 February, the Mechanism Registrar appointed five ICJ Kenya nominees as monitors for the two cases in Rwanda.

40. One individual indicted and arrested by the International Tribunal for the Former Yugoslavia, Vladimir Kovačević, had his case referred to Serbia for trial in March 2007. The proceedings were subsequently suspended following a determination that the transferred accused was unfit to stand trial. The Mechanism continues to monitor for any change of status in this referred case.

VII. Enforcement of sentences

41. In accordance with article 25 of the statute of the Mechanism, the President has assumed jurisdiction over enforcement issues related to the Mechanism and the two Tribunals, including the authority to designate the States in which convicted persons are to serve their sentence, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

42. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of Member States of the United Nations that have concluded enforcement-of-sentence agreements or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two Tribunals remain in force for the Mechanism. Moreover, the Mechanism continues its efforts to secure additional agreements so as to increase its enforcement capacity for both branches and welcomes the cooperation of States in this regard.

43. The Mechanism has proposed to some of the enforcement States a new model agreement or amendments to the existing agreements to provide greater clarity on financial matters and the respective responsibilities of the enforcing States and the Mechanism.

44. As at 11 May 2015, 29 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in either Mali (16) or Benin (13). Seven convicted persons are at the United Nations Detention Facility in Arusha, awaiting transfer to an enforcement State. The Mechanism has entered into agreements with the United Nations Development Programme (UNDP) in Mali and UNDP-Benin with regard to the implementation of the existing agreements on enforcement of sentences.

45. In addition, 17 persons convicted by the International Tribunal for the Former Yugoslavia are serving their sentences in 11 States: Belgium (1), Denmark (2), Estonia (3), Finland (1), France (1), Germany (3), Italy (1), Norway (1), Poland (1), Portugal (1), and Sweden (2). Seven convicted persons are at the United Nations Detention Unit in The Hague, awaiting transfer to an enforcement State.

46. After receiving the report of an independent prison management expert examining conditions of detention in Benin and Mali, the Mechanism has nearly completed the implementation of the expert's recommendations in Benin and continues to make progress in Mali. The Mechanism is closely coordinating these efforts with UNDP in both States. It has also been working, in coordination with the national authorities, to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States.

47. Throughout the reporting period, the Mechanism continued to closely monitor the security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali. Following the outbreak of Ebola in Mali, the Mechanism liaised with the Malian authorities, the United Nations Multidimensional Integrated Stabilization Mission in Mali, the United Nations Mission for Ebola Emergency Response, the World Health Organization and the International Committee of the Red Cross to ensure that there were adequate medical, preventive, and protective measures in place to assure the safety of convicted persons whose sentences are being enforced in Mali.

48. The International Criminal Tribunal for Rwanda is in the process of refurbishing eight cells at a prison in Senegal, which will enhance the sentence enforcement capacity of the Arusha branch of the Mechanism. The Mechanism is grateful to the Government of Senegal for providing the cells and to the Tribunal for coordinating construction of the cells.

VIII. Relocation of acquitted and released persons

49. On 1 January 2015, the Mechanism assumed responsibility for efforts to assist with the relocation of the 11 individuals acquitted and released by the International Criminal Tribunal for Rwanda who remain in Arusha, some of whom have been seeking relocation for more than eight years. The Mechanism has adopted a strategic plan, which builds on the valuable lessons learned by the Tribunal, to guide its approach in the performance of this function. The strategic plan includes a number of steps to support and expand efforts to find appropriate places where individuals tried by the Tribunal and subsequently acquitted and released can be relocated, to limit the international community's financial expenditure on their upkeep and to provide appropriate humanitarian assistance.

50. The Mechanism greatly benefitted from the close cooperation of the International Criminal Tribunal for Rwanda in the transitional period, and is relying on the continued logistical assistance of the Tribunal in supporting acquitted and released persons still residing in Arusha. Given its mandate to operate as a small and lean institution, the Mechanism is limited in the amount of assistance it can provide acquitted and released individuals. In this context, the Mechanism is particularly grateful to the Security Council and the international community for their support of relocation efforts, and urges that these be continued and expanded, with the aim of resolving this crucial humanitarian challenge.

IX. Archives and records

51. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals. Pursuant to article 27(2) of the statute, the archives of the Tribunals are to be co-located with the respective branches of the Mechanism.

52. The archives of the Tribunals include materials concerning: investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations, and the general public. The materials consist of documents, maps, photographs, audiovisual recordings, and objects.

53. The Mechanism Archives and Records Section has been tasked with preserving these materials and facilitating the widest possible access to them while ensuring the continued protection of confidential information, including information concerning protected witnesses.

54. During the reporting period, the Section has continued to work in close cooperation with the Tribunals on the preparation and transfer of records and archives to the custody of the Mechanism. In Arusha, approximately 70 per cent of physical records of long-term or permanent value designated for transfer to the Mechanism Registry have been received to date. This includes records in paper, audiovisual and artefact format. In addition, management of the digital judicial records of the International Criminal Tribunal for Rwanda has been transferred to the Mechanism as at 1 January 2015.

55. In The Hague, substantial quantities of records are still being prepared for transfer, following training of managers and staff at the International Tribunal for the Former Yugoslavia. The Section has implemented a new system for managing the process of transferring records and archives to the Mechanism, which has improved the efficiency and effectiveness of these transfers.

56. The Section continues to contribute to the planning of the new premises for the Mechanism in Arusha by providing additional functional requirements, specifications and estimates of resource requirements for the archives building. The Section is also working on the development of a digital repository for secure storage of the digital archives, to enable their long-term preservation and access for current and future generations.

57. The Section also continues to lead or contribute to the development of record-keeping policies and systems for the Mechanism, including systems for the management of judicial and non-judicial records in the interest of enhancing operational efficiency and effectiveness.

X. Cooperation of States

58. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with it in relation to the investigation and prosecution of persons covered under the statute, as well as with orders and requests for assistance in relation to cases before the Mechanism. The Mechanism, like the two Tribunals, is dependent upon the cooperation of States.

59. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations being conducted by the Prosecutor and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in this respect. Likewise, as described above, the Mechanism relies on the cooperation of States for the enforcement of sentences.

60. The Mechanism continued to promote communication and cooperation with the Governments of the States of the former Yugoslavia and Rwanda and to keep relevant officials in those States updated on the activities of the Mechanism and the transition of responsibilities from the Tribunals to the Mechanism. During the reporting period, Mechanism officials have met with Rwandan authorities to discuss areas of mutual interest. Representatives of the Mechanism, including the President, have also visited areas of the former Yugoslavia to engage with Government officials, attend public events and meet with victims groups. In addition, the President of the Mechanism has met with State officials and victims groups from the former Yugoslavia in The Hague.

61. Pursuant to paragraph 15 of Security Council resolution 1966 (2010), the Mechanism has sought the cooperation of the Governments of the States of the former Yugoslavia to establish information centres that would provide access to copies of public records of the archives of the International Tribunal for the Former Yugoslavia. Good progress has been made in discussions with the Government of Bosnia and Herzegovina and efforts are under way to resume discussions with Serbia and Croatia in this regard.

XI. Assistance to national jurisdictions

62. The Mechanism routinely receives requests by national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. Further, during the reporting period, the Mechanism has received and considered requests to vary the protective measures of witnesses and disclose their testimony and evidence (as discussed in sect. III above on judicial activities). Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

XII. External relations

63. In addition to discussions with officials from States in the former Yugoslavia and Rwanda, principals and officials of the Mechanism provided briefings to diplomatic representatives of Member States in the United Republic of Tanzania, the Netherlands and at the United Nations, and held discussions with interested groups on the mandate and priorities of the Mechanism.

64. The Mechanism's website serves as the virtual face of the institution. Users from all parts of the world viewed approximately 80,000 pages over the reporting period. The web page on the construction of the Arusha facility, which was developed to inform the public about this crucial project, was upgraded along with the project's advancement.

65. In addition, the Web Unit was instrumental in the creation of the legacy website of the International Criminal Tribunal for Rwanda, which was launched in November 2014. The Mechanism will manage this website after the closure of the Tribunal, guaranteeing public access to information on the Tribunal and key case documents, in multiple languages.

66. The Mechanism continues to provide library services to internal and external users. In addition, during the reporting period, 441 persons from various organizations visited and received presentations on the Mechanism library in Arusha. The process of rationalization and development of the current collection is ongoing. Pursuant to the dual-hatting principle, the Library of the International Tribunal for the Former Yugoslavia supported the work of the legal teams of the Mechanism's branch in The Hague and external users by providing guidance as to available material, pursuing inter-library loans with other legal institutions based in The Hague, and developing a procedure to facilitate out-of-hours requests. Overall, the Library in The Hague processed approximately 140 search requests and loans per month. Work on the fourth edition of the *International Criminal Tribunal for Rwanda Special Bibliography* has started, with a view to expanding this publication to cover the collections of the Tribunal.

67. The Mechanism has provided training and capacity-building assistance to representatives of the African Court on Human and Peoples' Rights, the Judges and Magistrates Vetting Board of Kenya, representatives of the Special Criminal Court for Darfur Crimes, the Tanzanian judiciary, and Tanzanian legal scholars and academics, through training programmes on legal research online. The Mechanism also engaged in capacity-building activities in the former Yugoslavia and in The Hague by organizing lectures and presentations on its work and the legacy of the

International Tribunal for the Former Yugoslavia, for law students and legal professionals.

XIII. Conclusion

68. The Mechanism continues to adhere to the mandate established by the Security Council in its resolution 1966 (2010). In achieving its goals, the Mechanism has received support from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, from the Office of Legal Affairs and the Department of Management of the Secretariat, from the Netherlands, Rwanda, the United Republic of Tanzania, States of the former Yugoslavia and individual Members of the United Nations. Such support is crucial to the continued success of the Mechanism, which maintains its focus on carrying out its mandate in an efficient and cost-effective manner.

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Justice Hassan Bubacar Jallow, for the period from 16 November 2014 to 15 May 2015

I. Activities of the Office of the Prosecutor of the International Residual Mechanism

A. Introduction

1. During the reporting period, the Office of the Prosecutor of the International Residual Mechanism continued to discharge its mandate with respect to a variety of activities, including tracking fugitives, rendering assistance to national authorities, monitoring cases referred to national jurisdictions, maintaining and updating fugitive files in anticipation of arrest and litigation before the Mechanism's Appeals Chamber.

2. In addition, the reporting period saw the continuation of systems and procedures established to streamline operations and ensure greater coordination between the two branches of the Office of the Prosecutor, including recruitment processes for establishing rosters and the preparation of the budget for the next biennium.

B. Arusha branch of the Office of the Prosecutor of the Mechanism

3. With the International Tribunal for the Former Yugoslavia entering into the final phase of its completion strategy, the Arusha branch of the Office of the Prosecutor of the Mechanism continued to focus its efforts on gradually taking full responsibility of all remaining functions of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda.

1. Fugitive-tracking

4. The arrest and prosecution of the three fugitives, Augustin Bizimana, Félicien Kabuga, and Protais Mpiranya, remains a key priority and the Prosecutor continues his efforts to track these fugitives, with particular emphasis on the Great Lakes and southern African regions. In this regard new projects have been initiated with various partners to facilitate these efforts.

5. As part of efforts to disseminate information to the public and renew the call for international cooperation and private participation in facilitating the tracking and arrest of the nine remaining fugitives, the fugitive-tracking team continued with the implementation of the International Fugitives Initiative, launched by the Prosecutor in Kigali on 24 July 2014, through the distribution of updated posters of the fugitives and the preparation of audio and video materials for dissemination.

6. The Prosecutor continues to render assistance, where requested, in the tracking of the six fugitives whose cases have been referred to Rwanda (Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Ladislas Ntaganzwa, Ryandikayo and Charles Sikubwabo) and has jointly developed new initiatives with

the Rwandan authorities to facilitate these efforts. The Prosecutor is grateful for the continued support from the International Criminal Police Organization (INTERPOL), the United States Department of State, through its War Crimes Rewards Program, and some Member States in the tracking effort and is particularly grateful for the Security Council's renewed and essential call, in its statement to the press dated 8 November 2014 on the twentieth anniversary of the International Criminal Tribunal for Rwanda, upon all Member States to cooperate with the Mechanism in the arrest and prosecution of the nine remaining fugitives.

2. Appeal and post-appeal proceedings

7. During the reporting period, the appeal judgement in the *Ngirabatware* case was delivered on 18 December 2014, thereby completing the case. With the conclusion of the appeal, the ad hoc appeals team prosecuting it was disbanded and the four staff members separated from service by 31 January 2015. The Prosecutor also responded to post-appeal requests filed by Francois Xavier Nzuwonemeye, Gerard Ntakirutimana and Jean De Dieu Kamuhanda and to a request for review of judgement filed by Eliézer Niyitegeka.

3. Assistance to national jurisdictions

8. The servicing of foreign requests for assistance has continued as an important function of the work of the Office of the Prosecutor. In the reporting period, the Prosecutor responded to 16 requests from five Member States and international organizations. Given the volume of work involved in this exercise in the form of research, analysis and classification of material in the evidence and information databases of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda, seeking witness or confidential provider consent, and/or filing submissions in relation to applications for variation of protective measures, the Office of the Prosecutor has institutionalized a system-wide and more efficient response mechanism. As noted above, the Prosecutor continued to render assistance to Rwanda, where requested, in the tracking of the six fugitives whose cases have been referred to Rwanda and has jointly developed new initiatives to facilitate the process.

4. Preservation and management of archives

9. Staff of the Arusha branch continued to provide support to the Office of the Prosecutor of the International Criminal Tribunal for Rwanda for the archiving project with the aim of ensuring a smooth transition of functions and responsibilities relating to the management of the Prosecutor's active records and evidence collection. During the reporting period, the Office of the Prosecutor of the Tribunal transferred supplementary records, including a further 1,100 boxes of active records from some completed cases, to the Arusha branch of the Office of the Prosecutor. In addition, the Prosecutor's evidence vault, containing a collection comprising 105.55 linear metres of documents, artefacts and audiovisual materials, was transferred to the custody of the Arusha branch on 24 April 2015. Additional transfers will be carried out on an ongoing basis as the Tribunal winds down to closure later in 2015.

10. For the efficient management of the Prosecutor's records and evidence collection, an Associate Records Manager and Associate Information Manager were

recruited on an ad hoc basis and assumed office on 4 March and 1 May 2015, respectively. They are working closely with staff of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda in the classification of its evidence and records in accordance with the Secretary-General's bulletin ST/SGB/2012/3, entitled "International Criminal Tribunals: information sensitivity, classification, handling and access" and the Mechanism's standard for preparation and transfer of records — digital records.

5. Monitoring of cases transferred to national jurisdictions

11. The Prosecutor continued to monitor progress in the referred cases of *Wenceslas Munyeshyaka* and *Laurent Bucyibaruta*, which were transferred to France in 2007, together with those of *Jean Uwinkindi* and *Bernard Munyagishari*, which were transferred to Rwanda in 2012 and 2013, respectively. The investigation phase of the *Munyeshyaka* case has now been concluded, with any trial anticipated to now be completed before the end of 2015. In the *Bucyibaruta* case, investigations are now scheduled to be completed by November 2015, with any trial anticipated to commence in the first trimester of 2016.

12. The *Uwinkindi* trial, which commenced on 14 May 2014, continues before the High Court in Rwanda, with substantial interlocutory appeals to the Supreme Court. The *Munyagishari* case is still in the pretrial phase and no commencement date has yet been scheduled. During the reporting period, the Prosecutor responded to Mr. Munyagishari's third request for the revocation of the order referring his case to Rwanda, which was dismissed by the President of the Mechanism in a decision dated 22 April 2015.

6. Diplomatic and external relations

13. During the reporting period, the Prosecutor continued a series of United Nations consultative meetings, diplomatic outreach and round-table discussions that provided a useful forum for the sharing of experiences and best practices on diverse international criminal justice issues and their local application in domestic courts. In this context, the Prosecutor received a delegation of Special Prosecutors from Darfur, members of the Judges and Magistrates Vetting Board of Kenya and addressed a best practices workshop for national prosecutors from Canada, Kenya, Rwanda and Uganda.

C. The Hague branch of the Office of the Prosecutor of the Mechanism

14. Double-hatting arrangements for the branch of the Office of the Prosecutor of the Mechanism in The Hague continue to be in place to make efficient use of resources. An advance ad hoc prosecution appeals team had been established to handle appeals against judgements of the International Tribunal for the Former Yugoslavia before the Mechanism's Appeals Chamber. Currently, this team is composed of two staff members who continue to assist the Office of the Prosecutor of the Tribunal. Given that no trial judgements were delivered since the jurisdiction of the Mechanism started in relation to cases of the Tribunal, vacancies in the ad hoc prosecution appeals team have not been filled. Six recruitment processes for ad hoc appeals posts at different levels have been completed or are at an advanced stage. During the next reporting period, ad hoc appeals posts will be filled based on

established rosters to prosecute the projected appeals in the *Šešelj* and *Karadžić* cases.

15. Staff members of the branch in The Hague continue to provide assistance to the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in relation to ongoing cases and the branch receives support, where necessary, from the Office of the Prosecutor of the Tribunal to ensure a smooth transition of functions.

1. Appeal and post-appeal proceedings

16. Owing to delays in the trial calendar of the International Tribunal for the Former Yugoslavia, there were no appeals in the reporting period. As mentioned earlier in the present report, at the branch in The Hague, ad hoc appeals posts will be filled to prosecute the appeals in the *Šešelj* and *Karadžić* cases, in which the Tribunal is expected to deliver trial judgements later in 2015.

2. Review proceedings

17. The branch of the Office of the Prosecutor in The Hague responded to a request for review filed by Sreten Lukić, who was sentenced to 20 years of imprisonment by the International Tribunal for the Former Yugoslavia in the *Šainović* case. The application was based on the alleged existence of new facts justifying review of his conviction and sentence.

3. Other litigation

18. A number of filings during the reporting period concerned the status of documents on the record in completed cases of the International Tribunal for the Former Yugoslavia. The Prosecution responded to a request to make public a decision in the *Boškovski and Tarčulovski* case and made a request for change of status of a filing in another case.

4. Diplomatic and external relations

19. The branch of the Office of the Prosecutor in The Hague maintains contact with representatives of the international community in The Hague and in the former Yugoslavia as well as with war crimes prosecutors from a number of countries. In particular, the branch works closely with the liaison prosecutors from Bosnia and Herzegovina, Croatia and Serbia embedded in the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to facilitate access to relevant material in the evidence collection of the Office of the Prosecutor of the Tribunal. The branch also met with representatives of victim organizations from Bosnia and Herzegovina. Furthermore, the branch met with representatives from the European External Action Service. In June and July 2015, the Prosecutor will participate in a conference on genocide organized by victim groups in Bosnia and Herzegovina, the annual conference of regional prosecutors from the former Yugoslavia, hosted by the office of the Attorney General of Croatia in Brijuni, and the commemoration of genocide in Bosnia and Herzegovina.

5. Assistance to national jurisdictions

20. During the reporting period, there was a continued increase in the volume of requests for assistance beyond the level anticipated in the budget. The branch of the Office of the Prosecutor in The Hague received 168 requests for assistance from four Member States and one international organization. A total of 529 requests for assistance have been received since the branch started operating on 1 July 2013. Owing to the high number of requests for assistance, the branch continued to employ a staff member on a temporary contract to assist in responding to requests for assistance and started to use overtime to avoid too big a backlog. The liaison prosecutors embedded with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia make a valuable contribution to the efficient handling of requests from Bosnia and Herzegovina, Croatia and Serbia. Responding to requests for assistance included locating relevant material in the evidence collection of the Office of the Prosecutor of the Tribunal, certifying documents, contacting witnesses and seeking the consent of providers of confidential information. The branch has, together with the Office of the Prosecutor of the Tribunal, provided support to visiting prosecutors from Bosnia and Herzegovina and Serbia. In addition, the branch filed submissions in three cases in relation to variation of protective measures for the purpose of national proceedings.

6. Sentencing matters

21. The branch of the Office of the Prosecutor in The Hague responded to requests for information from the Registrar of the Mechanism concerning the administration of sentences for six convicted persons.

22. The branch responded to two motions by convicted persons who requested that time spent on provisional release be credited as time served. Further, it has responded to a request from Milan Lukić for reconsideration or review of the decision for him to serve his sentence in Estonia.

7. Monitoring of cases transferred to national jurisdictions

23. The branch of the Office of the Prosecutor in The Hague, with the assistance of the Organization for Security and Cooperation in Europe in Bosnia and Herzegovina, monitored the resentencing proceedings in the *Milorad Trbić* case, which was referred to Bosnia and Herzegovina in 2007 under rule 11bis of the Rules of Procedure and Evidence of the International Tribunal for the Former Yugoslavia. Trbić was found guilty of genocide in 2009 and sentenced to 30 years of imprisonment by the Court of Bosnia and Herzegovina. His conviction and sentence were upheld on appeal by the Court of Bosnia and Herzegovina in 2010. Trbić's resentencing follows the finding by the Constitutional Court of Bosnia and Herzegovina in 2014 that he should have been sentenced under the Criminal Code of the Socialist Federal Republic of Yugoslavia of 1976 rather than under the Criminal Code of Bosnia and Herzegovina of 2003. This finding followed similar decisions by the Constitutional Court issued after the European Court of Human Rights rendered its judgement in *Maktouf/Dajmanović v. Bosnia and Herzegovina*. As a result of resentencing, Trbić was sentenced to 20 years of imprisonment. The monitoring report concluded that it appeared that human rights standards had been respected throughout the resentencing proceedings.

8. Contribution to organization-wide management

24. Staff members of the branch of the Office of the Prosecutor in The Hague contribute to organization-wide management through participation in, and giving support to, various committees and working groups, including the Information and Communications Technology Committee, the Records and Archives Working Group, Registry coordination meetings, the local committee on contracts and central review bodies.

9. Preservation and management of archives

25. The branch of the Office of the Prosecutor in The Hague is working with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to prepare to hand over records from the latter to the branch in The Hague. The branch has also been working on enhancing its records-management system and procedure and is consulting with the Archives and Records Section and Information Technology Services Section of the Mechanism to adopt a system that will be compatible with the future archiving systems of the Mechanism.